

SWARTZ CULLETON PC  
 By: Brandon A. Swartz, Esquire  
 Identification No. 78344  
 By: Maria McGinty-Ferris, Esquire  
 Identification No. 92868  
 547 E. Washington Avenue  
 Newtown, PA 18940  
 T: 215-550-6553  
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Attorneys for Plaintiff,  
 Kay Switzer

**LEGAL**  
**JAN 16 2019**  
**CENTRAL INTAKE**

FILED  
 PROthon, JAN  
 2019 JAN - 7 A 9:09  
 CLERK OF COURT  
 COUNTY OF CUMBERLAND

KAY SWITZER  
 801 Lasalle Street  
 Berwick, PA 18603

*Plaintiff*

vs.

WAL-MART STORES EAST, LP  
 702 SW 8<sup>th</sup> Street  
 Bentonville, AR 72716

*Defendant*

COURT OF COMMON PLEAS  
 COLUMBIA COUNTY

NO.

**COPY**  
 2019 - CV - 29

JURY TRIAL DEMANDED

# NOTICE TO DEFEND

## NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE. GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COLUMBIA COUNTY BAR ASSOCIATION  
 LAWYER REFERRAL AND INFORMATION SERVICE  
 Court Administrator Columbia County Courthouse  
 Bloomsburg, PA  
 (717) 784-1991

## AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene sesenta (60) dias de plazo al partir de la fecha de la demanda y la notificación. Usted falta asistir una comparecencia escrita o en persona o con un abogado, entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de la persona. Sea avisado que si usted no se detiene, la corte tomará medidas y puede continuar la demanda en su favor sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted. LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACION DE LICENCIADOS DEL COLEMBIA  
 SERVICIO DE REFERENCIA E INFORMACION LEGAL  
 Court Administrator Columbia County Courthouse  
 Bloomsburg, PA  
 (717) 784-1991

Certified from the records this

7<sup>th</sup> day of January, A.D. 2019

per Barbara N. Silvestri

Proth & Clerk of Sev. Courts  
 Mv Com. Ex. 1st Monday in 2020

SWARTZ CULLETON PC

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KAY SWITZER

801 Lasalle Street

Berwick, PA 18603

*Plaintiff*

vs.

WAL-MART STORES EAST, LP

702 SW 8<sup>th</sup> Street

Bentonville, AR 72716

*Defendant*

COURT OF COMMON PLEAS  
COLUMBIA COUNTY

NO. 2019-CV-29

JURY TRIAL DEMANDED

CIVIL ACTION COMPLAINT

1. Plaintiff, Kay Switzer, is an adult individual and citizen of the Commonwealth of Pennsylvania, residing therein at the above-captioned address.

2. Defendant, Wal-Mart Stores East, LP, was and is now a business entity, believed to be a limited partnership, engaged in retail sales with a corporate headquarters located at 702 SW 8<sup>th</sup> Street, Bentonville, AR 72716.

3. Venue is proper in Columbia County because the incident giving rise to Plaintiff's claims occurred in Columbia County and because the Defendant regularly and continuously conducts business in Columbia County.

4. At all times relevant hereto, the Defendant acted by and through its agents, servants, employees, workmen and/or other representatives, who were, in turn, acting within the course and scope of their employment, agency and/or service for the same.

5. At all times material herein, the Defendant, by and through its trustees, directors, agents, servants, workmen, employees and/or other representatives, acting within the course and scope of their employment with the said Defendant, owned, operated, controlled, leased, inspected, possessed, managed and/or maintained the Wal-Mart retail store premises located at 100 Lunger Drive, Bloomsburg, PA 17815.

6. On or about April 25, 2017 and for a long time prior thereto, it was the duty of the Defendant, by and through its trustees, directors, agents, servants, workmen, employees and/or other representatives, to keep and maintain the aforesaid Wal-Mart retail store premises located at 100 Lunger Drive, Bloomsburg, PA 17815, in a reasonably safe condition for persons lawfully upon the premises, such as Plaintiff, Kay Switzer.

**COUNT I**  
**KAY SWITZER v. WAL-MART STORES EAST, LP**  
**NEGLIGENCE – PREMISES LIABILITY**

7. Plaintiff hereby incorporates by reference paragraphs one (1) through six (6) of the within Complaint as though the same were fully set forth at length herein.

8. On or about April 25, 2017, Plaintiff, Kay Switzer, was shopping in the aforesaid Wal-Mart retail store premises located at 100 Lunger Drive, Bloomsburg, PA 17815, and was occupying a toilet in the ladies restroom when, suddenly and without warning, and as a direct result of a defective and/or dangerous condition of the aforementioned premises, Plaintiff fell off the aforesaid loose toilet seat, thereby causing the Plaintiff to sustain various severe and permanent bodily injuries and losses as more fully set forth herein.

9. The incident described in the preceding paragraphs of the within Complaint was caused by the negligence and carelessness of the Defendant, Wal-Mart Stores East, L.P., by and through its agents, servants, workmen, employees and/or other representatives, acting within the course and scope of their employment, generally and in the following particular respects:

- (a) carelessly and negligently allowing the aforesaid premises to exist in a dangerous condition for a prolonged period of time so as to cause injury to the Plaintiff;
- (b) carelessly and negligently failing to inspect the premises in such a manner so as to identify defects and prevent potential bodily injury to third parties such as the Plaintiff;
- (c) carelessly and negligently failing to recognize the defect which caused the aforesaid loose toilet seat to remain on the Defendant's premises and failing to timely remedy same;
- (d) carelessly and negligently creating and allowing a dangerous condition to exist by failing to provide proper safety and operational instructions to workers at its aforesaid premises regarding routine inspections and maintenance of its store;
- (e) carelessly and negligently failing to ensure that the Defendant's aforesaid premises could be traversed in a manner which would not cause a danger to potential third parties, such as the Plaintiff;
- (f) carelessly and negligently failing to adequately and timely repair defects to said premises;
- (g) carelessly and negligently failing to correct a dangerous and hazardous condition of which Defendant was aware or should have been aware;
- (h) failing to warn persons lawfully upon the Defendant's premises, such as the Plaintiff, of the aforesaid dangerous condition;
- (i) otherwise failing to provide a safe place for persons lawfully upon the Defendant's premises, such as the Plaintiff, to conduct their business;
- (j) negligence by virtue of the doctrine of *respondeat superior*; and
- (k) negligence by virtue of the doctrine of *res ipsa loquitur*.

10. Plaintiff, Kay Switzer, in no manner contributed to her injuries, which were the direct and proximate result of the Defendant's own negligence and/or carelessness.

11. As a result of the aforesaid negligence of the Defendant, Plaintiff, Kay Switzer, suffered severe injuries, including, but not limited to, right shoulder tendon tears requiring surgical repair, and distal subscapularis tendinopathy, as well as aches, pains, mental anxiety and anguish, and a severe shock to her entire nervous system. Plaintiff has in the past and will in the future undergo severe pain and suffering as a result of which she has been in the past and will in the future be unable to engage in her usual activities, all to her great detriment and loss.

12. As a result of the aforesaid negligence of the Defendant, Plaintiff has been and will be obliged to receive and undergo medical attention and care and to expend various sums for the treatment of her injuries and incur such expenditures for an indefinite time in the future.

13. As a further result of the aforesaid accident, Plaintiff, Kay Switzer, has in the past and may in the future suffer a loss of her earnings and/or earning power, and she may incur such loss for an indefinite period in the future.

14. Further, by reason of the aforesaid occurrence, Plaintiff has and/or may hereinafter incur other financial expenses all in an effort to treat and cure herself of the injuries sustained in the aforesaid accident.

15. As a further result of the accident described herein, Plaintiff has or may have suffered injuries resulting in the serious and/or permanent loss of use of a bodily function, dismemberment, and/or scarring, which may be in full or part cosmetic disfigurements which are or may be permanent, irreparable and severe.

16. As a further result of the accident described herein, Plaintiff has suffered a loss of the enjoyment of her usual duties, avocations, life's pleasures and activities, and the shortening of her life expectancy, all to her great detriment and loss.


17. As a further result of the aforesaid accident, Plaintiff has suffered great and unremitting physical pain, suffering and mental anguish, all of which may continue in the future.

WHEREFORE, Plaintiff, Kay Switzer, demands judgment in her favor and against Defendant, Wal-Mart Stores East, LP, in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

Respectfully,

SWARTZ, CULLETON PC

By:



Brandon A. Swartz, Esquire  
Maria McGinty-Ferris, Esquire

*Attorneys for Plaintiff,*  
Kay Switzer

Date: December 27, 2018

EXHIBIT

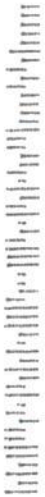
1. The undersigned, Clerk of the Court, do hereby certify that the foregoing is a true and correct copy of the original as filed with the Court.

2. The undersigned, Clerk of the Court, do hereby certify that the foregoing is a true and correct copy of the original as filed with the Court.

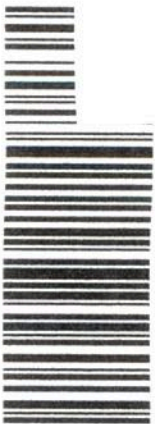
3. The undersigned, Clerk of the Court, do hereby certify that the foregoing is a true and correct copy of the original as filed with the Court.

*[Handwritten Signature]*

NOTED  
2019 JAN -7 A 9:09  
CLERK OF COURTS  
COUNTY OF COLUMBIA



**CERTIFIED MAIL**



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72716

U.S. POSTAGE  
FCM LG ENV  
NEWTOWN, PA  
18940  
JAN 19, 19  
AMOUNT  
**\$7.4**  
R2305M148862

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